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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,131	07/11/2001	Wright J. Nee	ROC920000321US1	9531

7590

11/02/2005

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EXAMINER

KNOWLIN, THJUAN P

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/903,131	Applicant(s) NEE, WRIGHT J.	
	Examiner Thjuan P. Knowlin	Art Unit 2642	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.

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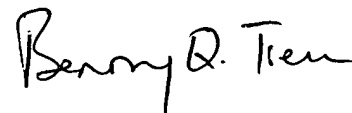
1. Applicant's arguments filed 10/03/05 have been fully considered but they are not persuasive.

2. Applicant argues that the Marrah et al (US 6,728,522) patent neither discloses nor suggests, storing a set of listener preferences, and using the stored listener preferences as a predetermined selection criteria to select a group of broadcast signals, multiple program formats, that the current location of receiver entered by the listener is a zip code, that the current location of the device being entered by the listener of a keypad integral to the device, and that the current location of the receiver is provided by a cellular phone terminal to the apparatus.

3. Applicant states that he concedes that what is described in col. 1, lines 56-60 (i.e., "geographic identification code") corresponds to the claim element "a current location of the receiver" in the present invention. Applicant further submits that three necessary elements of the present invention (e.g. the current location of the receiver and a database of broadcast sources for a plurality of broadcast locations) are provided in the Marrah et al. patent, however, a set of listener preferences is not disclosed. Examiner respectfully disagrees with this argument. The Marrah et al. patent does disclose and suggest a set of listener preferences (e.g. selected geographic area or county of interest) (See col. 1 lines 49-65). The Marrah et al. patent further discloses and suggests that the current location of receiver entered by the listener is a zip code (See col. 1 lines 52-56), that the current location of the device being entered by the listener of a keypad integral to the device (See col. 1 lines 62-65), and that the current location of the receiver is provided by a cellular phone terminal to the apparatus (See

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col. 2 lines 59-63). Applicant states that the Marrah et al. patent does not disclose or suggest multiple program formats since all of the channels in the database are exclusively weather related. However, all of the channels in the database are not exclusively weather related. The channels are also used for AM and/or FM broadcast signals (See col. 3 lines 12-14). The Marrah et al. patent further discloses that a plurality of available weather band channels for receiving broadcast weather band signals, could also contain weather, emergency, or other messages (See col. 3 lines 45-59).



BENNY TIEU
PRIMARY EXAMINER

A.U. 2642